

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Angela Motte	Team: Team # 4	CCRB Case #: 200206533	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 09/25/2002 6:00 PM	Location of Incident: C/O Moheegan Ave and East 179th St in the Bronx	Precinct: 48	18 Mo. SOL 3/25/2004	EO SOL 3/25/2004	
Date/Time CV Reported Sun, 09/29/2002 5:18 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 10/03/2002 11:40 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Federico Martinez	01892	901936	048 PCT
2. POM Angel Maysonet	12332	916516	048 PCT
3. SGT Ramon Reyes	05368	910860	048 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Federico Martinez	Force: Sgt. Federico Martinez used physical force against § 87(2)(b)	
B.POM Angel Maysonet	Force: PO Angel Maysonet used a chokehold against § 87(2)(b)	
C.POM Angel Maysonet	Force: PO Angel Maysonet used physical force against § 87(2)(b)	
D.POM Angel Maysonet	Force: PO Angel Maysonet used physical force against § 87(2)(b)	
E.SGT Ramon Reyes	Force: PO Ramon Reyes used physical force against § 87(2)(b)	
F.POM Federico Martinez	Abuse: Sgt. Federico Martinez threatened to pepper spray § 87(2)(b)	
G.POM Angel Maysonet	Off. Language: PO Angel Maysonet made remarks to § 87(2)(b) based upon race.	

### Synopsis

On September 25, 2002, at approximately 6:00 p.m. members of the 48th Precinct Tracer Unit arrested § 87(2) and § 87(2)(b) brothers. During the arrest process, § 87(2) and § 87(2)(b) stated that an officer punched, kicked, slapped, and choked § 87(2)(b) further stated that the same officer made a comment regarding his race and cursed at him while subsequently threatening to arrest him. § 87(2) further stated that an officer threatened to pepper spray him.

§ 87(2) and § 87(2)(b) were interviewed by Sergeant Christopher Thomas of the Internal Affairs Bureau on September 29, 2002 at the § 87(2)(b) place of residence, IAB log number 02-22242. The file was received by CCRB in January 2003.

The subject officers were identified via the civilian descriptions of the officers, the officers' testimonies, and Police Department documents. The subject officers were identified as Sgt. Federico Martinez, PO Angel Maysonet, and PO Ramon Reyes of the 48<sup>th</sup> Precinct.

§ 87(2)(g)

### Summary of Complaint

On September 29, 2002, § 87(2)(b) was interviewed by the New York City Police Department's Internal Affairs Bureau (IAB) at his place of residence. On November 6, 2002, § 87(2)(b) was interviewed at the CCRB. For the most part, the two statements were consistent. § 87(2)(b) told CCRB that on September 25, 2002 at approximately 6:00 p.m., he and his brother § 87(2)(b) were in the Bronx for a telephone job, as they are private technicians. § 87(2)(b) stated that they were in the area of Moheegan Avenue and East 179<sup>th</sup> Street, looking for the location of the job. § 87(2) got out of the car in the area of East 179<sup>th</sup> Street to look for the address, while § 87(2) located a parking space on Moheegan Avenue. After locating the parking space, § 87(2) noticed a commotion going on behind him, though he did not know who was involved at the time. § 87(2) approached the scene and realized that PO #1 a baldheaded, Hispanic officer in uniform, later identified (by the investigator) as PO Angel Maysonet, was "beating up" § 87(2)(b). There were a total of three uniformed officers on the scene. (The remaining officers were identified by the investigator as Sgt. Federico Martinez (PO #2) and PO Ramon Reyes (PO #3).) § 87(2) stated that PO Maysonet open-handedly slapped and punched § 87(2) once in the face. § 87(2)(b) who was leaning against a fence and already handcuffed, fell to the ground. PO Maysonet then kicked, punched, and slapped § 87(2) about the body numerous times. § 87(2) did not say or do anything while being assaulted. § 87(2) did not see any other officer strike § 87(2)(b). § 87(2)(b) stated that Sgt. Martinez and PO Reyes stood by, laughing. When § 87(2) told the officers to leave § 87(2) alone, PO Maysonet replied, "Get the fuck out of here before I arrest you" and also told § 87(2) "Go back to your white fucking neighborhood before I arrest your ass too. You have nothing to do here." § 87(2) told PO Maysonet that he did not have to be abusive toward § 87(2) because § 87(2) was already handcuffed. § 87(2) then walked away. As § 87(2) walked away, PO Maysonet called him back. § 87(2) complied and asked PO Maysonet what the problem was. PO Maysonet told him that he was going to arrest him. When § 87(2) asked him for what, PO Maysonet replied, "Because I feel like it." PO Maysonet then pushed § 87(2) against a parked car and proceeded to handcuff him; however, § 87(2) stated that PO Maysonet did not "physically abuse" him. § 87(2) and § 87(2) were placed in a blue and white van and transported to the 48<sup>th</sup> Precinct stationhouse. While in the van, PO Maysonet told § 87(2) that he was going to "spend his ass in jail for trying to be a nice guy." § 87(2) did not sustain any injuries but stated that § 87(2) sustained a bloody nose. § 87(2) stated that a crowd had gathered but he did not know or obtain any witnesses' names.

In § 87(2)(b) IAB statement, he stated that he was not present when § 87(2) was arrested and was not sure what § 87(2) had done. However, he observed an officer named "Angel," slap and punch his brother

as he lay on the ground handcuffed. Additionally, § 87(2)(b) stated that the officer named “Angel” threatened to slap him.

### **Results of Investigation**

§ 87(2)(b) was interviewed by IAB on September 29, 2002 at his place of residence. He was interviewed at the CCRB on November 6, 2002. For the most part his IAB statement was consistent with the statement he gave to CCRB. § 87(2)(b) stated that when he and his brother, § 87(2)(b) went to the area of East 179<sup>th</sup> Street and Moheegan Avenue, to conduct a telephone service, § 87(2)(b) did not feel “too good” about the area and decided to remain inside the car while § 87(2)(b) looked for the address. § 87(2)(b) could not recall the address at the time of the interview. § 87(2)(b) could not locate the address for the job. § 87(2)(b) asked some local youths for the address, but they did not know it. § 87(2)(b) then proceeded back to the car, walking down Moheegan Avenue. When § 87(2)(b) was about to cross the street, he observed a blue and white police van pull up beside him. § 87(2)(b) heard someone yell, “Hey you, come here.” § 87(2)(b) looked around and kept walking. § 87(2)(b) stated that he then observed the officer on the passenger side of the van, identified by the investigator as Sgt. Federico Martinez, get out of the van. Sgt. Martinez ran and tackled/pushed § 87(2)(b) against a wired fence. § 87(2)(b) demonstrated the movement, indicating that Sgt. Martinez took both of his arms and wrapped them around § 87(2)(b) body. Sgt. Martinez then pushed § 87(2)(b) causing him to fall against a fence. Sgt. Martinez then grabbed § 87(2)(b) left arm and pulled him up off of the ground. § 87(2)(b) who was now facing East 179<sup>th</sup> Street, observed two additional uniformed officers on the scene, identified as PO Angel Maysonet and PO Ramon Reyes. § 87(2)(b) stated that the tallest of the three officers, PO Maysonet (who is 6’5”), grabbed § 87(2)(b) by the throat with his hand and choked him. While doing so, PO Maysonet constantly told § 87(2)(b) to “Spit it out.” § 87(2)(b) stated that Sgt. Federico Martinez then took out his pepper spray and threatened him with it. § 87(2)(b) stated that he could not open his mouth because PO Maysonet was choking him. § 87(2)(b) stated that all of the officers then repeatedly told him to “Spit it out.” When PO Maysonet loosened his grip, § 87(2)(b) opened his mouth to show the officers that he did not have anything inside. § 87(2)(b) was then handcuffed; however, he did not know who handcuffed him. The officers again asked him to “Spit it out.” § 87(2)(b) told the officers that he had already showed them that he did not have anything. PO Maysonet replied, “Oh you’re a wise guy” and slapped § 87(2)(b) once in the face with an open hand. PO Maysonet’s palm struck § 87(2)(b) in the nose, causing his nose to bleed. § 87(2)(b) stated that PO Maysonet and Sgt. Martinez then punched and kned him about the body, mainly in his right thigh, lower back and left arm areas. § 87(2)(b) was leaning against the fence at this time. § 87(2)(b) was not sure if the third officer participated in this act. § 87(2)(b) then observed § 87(2)(b) standing across the street. § 87(2)(b) heard § 87(2)(b) tell the officers that they did not have to beat § 87(2)(b) PO Maysonet told § 87(2)(b) “You shut the fuck up before I lock you up.” PO Maysonet then approached § 87(2)(b) and asked him to turn around. § 87(2)(b) complied and PO Maysonet handcuffed him. § 87(2)(b) and § 87(2)(b) were then placed in a marked van. While in the van, PO Maysonet told § 87(2)(b) that if he had kept his mouth shut he would have been going home. The officers were also laughing at them. § 87(2)(b) and § 87(2)(b) were taken to the 48<sup>th</sup> Precinct stationhouse. § 87(2)(b) stated that he sustained a bloody nose during the encounter, but that his nosebleed was not extensive. § 87(2)(b) did not receive any medical treatment and did not request any. § 87(2)(b) denied resisting the officers at any time.

In his IAB statement, § 87(2)(b) added that he had stopped and had a brief conversation with a “young male BK/HSP” when he asked for directions. § 87(2)(b) further stated that PO Maysonet and PO Reyes slapped, punched, and kicked him even after he was handcuffed. The IAB investigator noted that § 87(2)(b) did not have any visible injuries. The investigator further noted that § 87(2)(b) “has been arrested a total of eleven times, mostly for narcotics related charges.”

### **Officer Identification:**

The encounter involved only three uniformed officers. Two were identified via the arrest report as PO Angel Maysonet and PO Ramon Reyes. The third officer was identified by name, Sgt. Martinez. § 87(2)(b) supplied the name. The listing of the officers with the respective allegations was based upon the descriptions provided by § 87(2)(b) and § 87(2)(b) their testimony, and the officers’ pedigree information. § 87(2)(b) described PO #1 as a male, possibly Hispanic, approximately 6’2”, baldheaded, more than 200 lbs., the tallest of the three officers, no facial hair or glasses, in uniform. PO #2 was described as a male,

Hispanic, approximately 190 lbs., approximately 5'9", in uniform, with "sergeant's stripes," and a nameplate that read "Martinez." PO #3 was described as a male, Hispanic, approximately 5'9", same build as the officer with the nameplate Martinez. § 87(2)(b) described PO #1 as a male, light skinned Hispanic, baldheaded, approximately 6'2-3", 250-260 lbs., no facial hair or glasses, in plainclothes. PO #2 was described as a male, in white uniformed shirt with sergeants' stripes, named Martinez, approximately 5'10-11", 180-190 lbs., possibly with a mustache. § 87(2)(b) could not recall what PO #3 looked like. Based upon the descriptions provided, there is no question that PO Maysonet is PO #1. PO Maysonet was the only baldheaded officer. Sgt. Martinez (PO #2) was the only sergeant on the scene and was wearing a white shirt. Since there were only three officers on the scene, PO Reyes was identified as PO #3, as he was the only remaining officer.

#### **Police Department Documents:**

There was no SPRINT report. The command log was received from the 48<sup>th</sup> Precinct and indicated that § 87(2)(b) was arrested by PO Ramon Reyes and § 87(2)(b) was arrested by PO Angel Maysonet. Both § 87(2)(b) and § 87(2)(b) physical condition was noted as "apparently normal." Both were transported to Bronx Central Booking. § 87(2)(b) was charged with Criminal Tampering, Criminal Possession of a Controlled Substance, and Resisting Arrest. § 87(2)(b) was charged with Obstructing Governmental Administration and Disorderly Conduct. According to the Officer of Court Administration and the Bronx County Clerk's Office, § 87(2)(b) criminal case is pending and § 87(2)(b) case was sealed (no public record).

#### **Officer Statements:**

Sgt. Federico Martinez, PO Angel Maysonet, and PO Ramon Reyes were interviewed at the CCRB on February 4, 2003. Sgt. Martinez, PO Maysonet, and PO Reyes were assigned to the Tracer Unit of the 48<sup>th</sup> Precinct. They were working in uniform assigned to a marked blue and white Police Department van. PO Maysonet was the driver.

Sgt. Federico Martinez stated that while they were on patrol, he observed § 87(2)(b) purchasing narcotics at the corner of Moheegan Avenue and East 179<sup>th</sup> Street in the Bronx. Sgt. Martinez stated that when he initially observed § 87(2)(b) he and the other unidentified male had their backs turned to him. Sgt. Martinez described the scene stating that § 87(2)(b) and the other individual were facing each other at an angle. The two separated within seconds. Sgt. Martinez stated that the area is a known drug location for marijuana and heroin. Sgt. Martinez believed that § 87(2)(b) was engaged in a drug transaction because of the manner in which he and the other male separated, with the unidentified male hurrying away. He did not actually see the exchange because of the way the two were positioned. In addition, § 87(2)(b) and the other individual went in different directions with § 87(2)(b) walking looking down at his hands. (Sgt. § 87(2)(b), § 87(2)(e), § 87(2)(f)

§ 87(2)(b), § 87(2)(e), § 87(2)(f) They did not pursue the seller.) § 87(2)(b) turned around heading in the officers' direction. Sgt. Martinez motioned for § 87(2)(b) to come to the van, saying, "Come here." § 87(2)(b) immediately put his hand to his mouth, as if inserting something, and ran away. Sgt. Martinez got out of the van and chased § 87(2)(b) on foot. When Sgt. Martinez caught § 87(2)(b) he grabbed § 87(2)(b) by his shoulders and a struggle ensued. § 87(2)(b) was flailing his arms and Sgt. Martinez tripped him in order to get him on the ground. Once on the ground, § 87(2)(b) placed his hands underneath his body as he lay face down. Sgt. Martinez "yanked" at § 87(2)(b) arms, telling him to give him his hands. PO Maysonet then came to assist Sgt. Martinez. Sgt. Martinez and PO Maysonet were eventually able to get § 87(2)(b) hands from underneath him. Sgt. Martinez did not know where PO Reyes was or what he was doing. After releasing § 87(2)(b) hands, Sgt. Martinez handcuffed him. Sgt. Martinez lifted § 87(2)(b) off of the ground and placed him against a nearby fence with § 87(2)(b) back to the fence. Sgt. Martinez asked § 87(2)(b) to open his mouth. § 87(2)(b) did not comply at first but eventually opened his mouth. Sgt. Martinez recalled that he and PO Reyes were together at this time. He could not recall where PO Maysonet was, but recalled hearing a male yelling. He could not recall what the male was saying. Sgt. Martinez glanced over and saw the male, § 87(2)(b) standing approximately 30-40 feet away. Sgt. Martinez remained focused on § 87(2)(b) because he was trying to recover the narcotics that he believed § 87(2)(b) had previously possessed. Sgt. Martinez patted down § 87(2)(b) but nothing was recovered. Sgt.

Martinez recalled PO Maysonet telling him that § 87(2)(b) had pushed him. Sgt. Martinez observed § 87(2)(b) handcuffed. PO Maysonet then informed him that he had placed § 87(2)(b) under arrest. Sgt. Martinez did not see the interaction between PO Maysonet and § 87(2)(b) and § 87(2)(b) were then transported to the 48<sup>th</sup> Precinct stationhouse. Sgt. Martinez did not see any injuries on either of the § 87(2)(b) and they did not complain of any injuries. Sgt. Martinez denied cursing at, threatening to pepper spray anyone, making any offensive comments, choking, or using excessive force against the § 87(2)(b). However, when asked if he slapped, punched, or kicked § 87(2)(b) Sgt. Martinez replied, "When I was trying to get him, when he was first initially down, yeah. I was hitting him." When asked for clarification, Sgt. Martinez stated that he punched § 87(2)(b) in his lower back in order to get § 87(2)(b) to release his hands. Sgt. Martinez struck § 87(2)(b) less than five times. Sgt. Martinez and PO Maysonet then "yanked" § 87(2)(b) arms from underneath him. Sgt. Martinez denied kneeling or slapping § 87(2)(b).

PO Angel Maysonet stated that he observed § 87(2)(b) alone, walking on Moheegan Avenue looking down into his hands, fumbling with what appeared to be a "deck" of heroin. PO Maysonet was approximately 10-15 feet away. PO Maysonet stated that his experience as a police officer making over a hundred narcotics arrests and receiving training from Street Narcotics Enforcement Unit (SNEU), led him to believe that § 87(2)(b) had narcotics in his possession. PO Maysonet rolled the van window down and Sgt. Martinez said something to § 87(2)(b). PO Maysonet could not recall what Sgt. Martinez said. § 87(2)(b) looked up, saw the officers, put his hand to his mouth, and ran. Sgt. Martinez immediately chased § 87(2)(b) on foot. PO Maysonet put the van in reverse to follow. PO Maysonet did not see when Sgt. Martinez caught § 87(2)(b) but did observe Sgt. Martinez and § 87(2)(b) involved in a struggle. As PO Maysonet approached, he observed § 87(2)(b) kicking, punching, wiggling, and shaking with Sgt. Martinez. § 87(2)(b) then ended up on the ground but he could not say how he ended up there. While on the ground, § 87(2)(b) was in a fetal position with his hands between his legs. Sgt. Martinez and PO Maysonet told § 87(2)(b) to put his hands behind his back but he refused. PO Maysonet grabbed § 87(2)(b) arm, attempting to get § 87(2)(b) hands behind his back. PO Maysonet stated that he did strike § 87(2)(b) at some point during the struggle in order to get his hands behind his back, but could not recall how or where he struck § 87(2)(b). PO Maysonet heard someone telling them to leave § 87(2)(b) alone. PO Maysonet looked and observed a male, § 87(2)(b) standing approximately 30-40 feet away. PO Maysonet ignored § 87(2)(b) at that time. § 87(2)(b) got closer. PO Maysonet turned around and saw § 87(2)(b) approximately 20 feet away. PO Maysonet told § 87(2)(b) "Do me a favor, get off the corner, go about your business. This is none of your business." PO Maysonet and Sgt. Martinez continued attempting to restrain § 87(2)(b). As § 87(2)(b) resisted, PO Maysonet felt someone push him on the back. PO Maysonet then observing § 87(2)(b) behind him. § 87(2)(b) was then handcuffed. He did not know where PO Reyes was at this time. PO Maysonet then grabbed § 87(2)(b) placed him against a parked car, handcuffed him, and searched him. PO Maysonet stated that he held § 87(2)(b) against the car because he kept pushing off of the car. PO Maysonet could not recall if he in fact pushed § 87(2)(b) against the car. § 87(2)(b) and § 87(2)(b) were placed in the van and transported to the 48<sup>th</sup> Precinct stationhouse. PO Maysonet did not see any injuries on either of the § 87(2)(b) and they did not complain of any injuries. PO Maysonet believed that no one assisted him in restraining § 87(2)(b). PO Maysonet denied tackling, choking, threatening to pepper spray, cursing at, or using any offensive language toward the § 87(2)(b). However, PO Maysonet stated that he was sure that he pushed § 87(2)(b) during the struggle and that he did pull § 87(2)(b) arm. PO Maysonet did recall punching him, however, he did not know how many times or where. PO Maysonet stated that he "did not remember" slapping § 87(2)(b) in the face. PO Maysonet did warn § 87(2)(b) that he could be arrested but denied "threatening" him. PO Maysonet denied seeing any other officer strike § 87(2)(b) but stated that he believed Sgt. Martinez did strike § 87(2)(b).

PO Ramon Reyes stated that he observed § 87(2)(b) alone, with heroin in his hand. PO Reyes stated that he was only 10 feet away and that he "clearly saw" that it was heroin. (PO Reyes stated that he knew that it was heroin based upon his training and the numerous narcotics arrests he has made.) Sgt. Martinez yelled to § 87(2)(b) "Excuse me, sir." § 87(2)(b) looked up, threw the heroin into his mouth, and ran. Sgt. Martinez chased § 87(2)(b) on foot while PO Maysonet backed up the van. When they caught up to Sgt. Martinez, Sgt. Martinez had already stopped § 87(2)(b). Sgt. Martinez told § 87(2)(b) to turn around and to place his hands behind his back. § 87(2)(b) refused. PO Reyes and PO Maysonet approached and assisted Sgt. Martinez in restraining § 87(2)(b). PO Maysonet attempted to grab § 87(2)(b) arms, while PO Reyes attempted to grab § 87(2)(b) hands to keep them away from his face until he was



§ 87(2)(b), § 87(2)(g)

During the arrest of § 87(2)(b) and § 87(2)(b) alleged that PO Maysonet open-handedly slapped then punched § 87(2)(b) in the face, and kicked, punched, and slapped § 87(2)(b) about the body while he was on the ground, before and after § 87(2)(b) was handcuffed, (allegation C) and without provocation. § 87(2)(b) stated that he did not see any other officer strike § 87(2)(b) however § 87(2)(b) stated that PO Maysonet and Sgt. Martinez struck him about the body before and after being handcuffed (allegation A and C). There were no allegations against PO Reyes. However, PO Reyes admitted that he and the other officers pushed § 87(2)(b) against the fence (allegation E), in order to gain leverage to handcuff § 87(2)(b) when he resisted. PO Reyes denied slapping, kicking or punching § 87(2)(b) (The other officers did not mention PO Reyes participating in restraining § 87(2)(b) Sgt. Martinez stated that when he initially apprehended § 87(2)(b) he tripped § 87(2)(b) taking him to the ground because § 87(2)(b) resisted. During the struggle Sgt. Martinez punched § 87(2)(b) in the lower back less than five times before the officers were able to handcuff him. Sgt. Martinez denied kicking, kneeling or slapping § 87(2)(b) With regard to PO Maysonet, he stated that he did punch § 87(2)(b) but could not recall where he struck § 87(2)(b) and could not recall if he slapped him. PO Maysonet denied choking or kicking § 87(2)(b) Given the officers' admissions with regard to the kind of force they employed, the question then becomes whether the force used by Sgt. Martinez, PO Maysonet, and PO Reyes was excessive. There is no dispute that Sgt. Martinez, PO Maysonet and PO Reyes struck or pushed § 87(2)(b) at some point during the incident. All officers stated that § 87(2)(b) resisted arrest by refusing to place his hands behind his back in that he flailed his arms and struggled with the officers. In addition, § 87(2)(b) and § 87(2)(b) stated that § 87(2)(b) sustained a bloody nose during the encounter. § 87(2)(b) stated that injury was not extensive and therefore he did not seek any medical attention. § 87(2)(b), § 87(2)(g)

§ 87(2)(b) is approximately 5'10" weighing approximately 180 pounds, whereas PO Maysonet is 6'5" weighing approximately 310 pounds, almost twice § 87(2)(b) weight. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

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§ 87(2)(g) [Redacted]  
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Investigator:	Date:
Supervisor:	Date:
Reviewed by:	Date:
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